



**US Army Corps
of Engineers**
Louisville District

Public Notice

Public Notice No.

LRL-2009-1190

Date:

16 Dec 09

Closing Date:

14 Jan 10

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Louisville District

ATTN: Layna Thrush, CELRL-OP-FS, Rm 752

P.O. Box 59

Louisville, Kentucky 40201-0059

Phone: (502) 315-6689

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act:

APPLICANT: City of Manchester
123 Town Square
Manchester, Kentucky 40962

AGENT: EA Partners, PLC
3111 Wall Street
Lexington, Kentucky 40513

LOCATION: Along an unnamed tributary to Goose Creek at
Railroad Avenue near its intersection with US
Route 421 in Manchester, Clay County, Kentucky.

PURPOSE: To construct a recycling center.

Latitude: 37.148° N
Longitude: 83.748° W
7.5 Minute Quad: Manchester and Barcreek,
Kentucky

DESCRIPTION OF WORK: The applicant proposes to place approximately 1,700 cubic yards of soil from onsite borrow into 4,160 linear feet (0.50 acre) of perennial, 920 linear feet (0.06 acre) of intermittent, and 1,260 linear feet (0.07 acre) of ephemeral streams. The proposed fill is required to construct the GreenPark Recycling Facility for Waste Not Technologies, Incorporated, to process recyclable materials.

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES: The gradation of the site to accommodate the storage, separator, and processing facilities made placement of fill material into stream unavoidable. The total amount of "waters of the United States" found on the 449-acre site include 5,460 linear feet of perennial stream, 920 linear feet of intermittent stream, 2,275 linear feet of ephemeral stream, and a 0.4 acre pond. The applicant proposes to avoid impacts to 1,300 linear feet of perennial stream, 1,015 linear feet of ephemeral stream, and the pond. The payment of an in-lieu fee (ILF) is proposed to mitigate for the discharge of fill into the perennial and intermittent streams and onsite storm water infrastructure to mitigate for discharge of fill into the ephemeral streams.

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It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA permit, if otherwise warranted, will not be issued until a State of Kentucky Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant, by this notice, hereby applies for State certification from the Kentucky Natural Resources and Environmental Protection Cabinet Division of Water (KDOW).

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the

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impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, United States Environmental Protection Agency, under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/orf/listnotices.asp>. All comments regarding this proposal should be addressed to Layna Thrush, CELRL-OP-FS at the address noted above and should refer to the Public Notice Number LRL-2009-41.

If you desire to submit your comments by email, you must comply with the following:

a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2009-1190

Example:

Subject: LRL-2009-1190

b) Provide your physical mailing address and telephone number.

c) Send your email to: lrl.regulatorypubliccomment@usace.army.mil

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d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.